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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MICHAEL HOWARD HUNTER,

Plaintiff,

vs.

GREGORY JOHNSON, LARRY
STEINMETZ, WILLIAM GRANT,
HAL WILSON, and RYAN GOLDEN,

Defendants.

NO. CV-09-165-JPH

**ORDER ADOPTING REPORT AND
RECOMMENDATION, DISMISSING ACTION
FOR FAILURE TO PAY FILING FEE, AND
DENYING ALL PENDING MOTIONS**

On December 2, 2009, Magistrate Judge Hutton filed a Report and Recommendation to dismiss this action based on Plaintiff's failure to pay the filing fee on or before November 30, 2009. A copy of the Report and Recommendation was returned to the Court on December 10, 2009, and re-mailed to Plaintiff at a residential address in Spokane, Washington, the same day.

Although Plaintiff has submitted various motions and "briefs" seeking leave to file a third supplemental complaint, he has not resolved the matter of the filing fee. His only argument is that application of 28 U.S.C. § 1915(g) is unconstitutional. Again, this argument is foreclosed by *Rodriguez v. Cook*, 169 F.3d 1176, 1178-81 (9th Cir. 1999).

1 For the reasons set forth in prior Orders and Reports and
2 Recommendations in this action, **IT IS ORDERED** the Report and
3 Recommendation (**Ct. Rec. 54**) is **ADOPTED in its entirety** and this action
4 is **DISMISSED** for failure to pay the filing fee as required by 28 U.S.C.
5 §§ 1914 and 1915.

6 **IT IS FURTHER ORDERED** all pending motions are **DENIED as moot**. The
7 District Court Executive shall enter this Order, enter judgment and
8 forward copies to Plaintiff. The Court finds any appeal of this
9 decision would not be taken in good faith.

10 DATED this 5th day of January 2010.

s/Edward F. Shea

EDWARD F. SHEA

UNITED STATES DISTRICT JUDGE

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